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In re Application of LI et al :
U.S. Application No.: 10/540,908 :
PCT Application No.: PCT/CN2003/000095 :
Int. Filing Date: 28 January 2003 : DECISION
Priority Date Claimed: 27 December 2002 :
Attorney Docket No.: 13369701-0001 :
For: TRIPTOLIDE DERIVATIVES AND THEIR :
USE :

This is in response to applicant's "Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR §1.137(a) and §1.181" filed 09 April 2007.

BACKGROUND

On 28 January 2003, applicant filed international application PCT/CN2003/000095, which claimed priority of an earlier China application filed 27 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 27 June 2005.

On 27 June 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 12 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 13 March 2006, applicant purportedly filed an executed declaration.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 29 January 2007, applicant filed a petition under 37 CFR 1.181.

On 09 February 2007, this Office mailed a decision dismissing the 29 January 2007 petition.

On 09 April 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 13 March 2006 is not present.

37 CFR 1.8(b) states,

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the petition was promptly filed.

With regard to item (2) above, the requisite copy of the previously mailed correspondence and certificate has been provided.

With regard to item (3) above, the requisite firsthand statement has been provided.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 December 2006 is hereby VACATED.

The application has an international filing date of 28 January 2003 and a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 29 January 2007.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision.

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